



American Institute of Merchant Shipping

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Before the
Federal Communications Commission
Washington, D.C. 20554

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JUL 21 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:

Amendment of Part 80 of the
Commission's Rules Concerning
the General Exemption for Large
Oceangoing Cargo Vessels and
Small Passenger Vessels

PR Docket No. 93-133

REPLY COMMENTS OF THE AMERICAN INSTITUTE OF MERCHANT SHIPPING

The American Institute of Merchant Shipping (AIMS) is a national trade association representing 23 U.S.-flag carriers which own or operate approximately eleven million deadweight tons of tankers, dry bulk carriers, containerships, and other oceangoing vessels engaged in the domestic and international trades of the United States. AIMS represents a majority of U.S.-flag tanker and liner tonnage. We provided comments to Docket 93-133 and we appreciate the opportunity to submit these reply comments. The following is in specific response to comments made by the American Radio Association (ARA). The points made are also applicable to comments made by the Society for Animal Protection and Clean Ocean Action.

AIMS disagrees with the contention of ARA that expanding the General Exemption violates treaty language, invites cheating, and is contrary to the public interest.

The ARA provides supporting comments for their views on the above issues in Sections II, III, and IV of their comments. Our Reply Comment is keyed to the ARA comment as follows:

II. EXTENDING THE GENERAL EXEMPTION TO VESSELS SAILING BEYOND THE 12

As AIMS noted in its comments, voyages made between U.S. ports carrying U.S. cargoes are domestic voyages subject to the Jones Act. A determination as to whether a U.S. ship is on an international or domestic voyage is not made by the FCC or Coast Guard. These determinations are made by the U.S. Customs Service. AIMS' comment and the example voyages described therein are the subject of a ruling made by the Carrier Ruling Branch of the Customs Service. AIMS carefully watches these rulings because a ruling that a particular voyage is international would open the trade to foreign-flag ships. This would clearly be inimical to U.S. ships and mariner interests.

In this section, the commentor notes that under SOLAS only individual exemptions may be granted and therefore a blanket exemption is in violation of the treaty. We disagree and contend that language used in the Notice did not fully discuss SOLAS applicability because the Notice concerns domestic voyages. In further discussion of SOLAS, it should be noted that exemptions and equivalents are treated separately. In SOLAS an exemption is covered by Regulation 4, Chapter I unless specific language in a following chapter pertains. The exemption language in Chapter IV appears to take precedence over Regulation 4, Chapter I. However, Regulation 5, Chapter I does pertain and is the regulation relied on by many other countries to introduce GMDSS equipment before coming-into-force of the new Chapter IV. Other nations notified IMO that GMDSS equipment was equivalent to the equipment required under the old Chapter IV. If the SOLAS treaty were applicable to the voyages in question, and we contend it is not, the U.S. could make an equivalent declaration to IMO as have many other nations.

There is a footnote (6) in this section referencing certain discharges as being "nearby foreign" rather than "domestic." This language on discharges was a mechanism introduced by the U.S. Shipping Commission during World War II (the duties of shipping commissioners have been assumed by the Coast Guard) to differentiate between seamen going "foreign" into war zones and "nearby foreign" such as Caribbean, Mexico, and Canada. This was done for now obscure personnel reasons and cannot be relied upon for official determination of a ship's voyage status.

III. THE PROPOSAL INVITES CHEATING ON THE COMMUNICATION ACT'S 150 NAUTICAL MILE LIMIT FOR RADIOTELEGRAPH EXEMPTIONS.

The basic precept within this section is commentor's suggestion that costs will drive a shipowner and master to contravene the Act. This contention by commentor is a difficult one to address because the basic assumption by the ARA is that we will deliberately break the law. We can assure the Commission that we take our responsibilities very seriously and this certainly includes adherence to laws. There are a number of factors which motivate anyone to comply with laws. These include respect for the law and the potential of negative results if a law is contravened. If a vessel were to deliberately violate the 150 mile limit there are penalties for both the company and the personnel involved. Violating the 150 mile limit is a violation of the Act and subjects the master and ship to civil penalty. Further, the violation also means the ship is not complying with the requirements of its Certificate of Inspection (COI). The COI requires a radio officer unless the FCC allows the ship to operate without one. Thus, the Coast Guard can take action against the ship and the master. If a ship is involved in an incident where oil is spilled, a contravention of federal regulations is cause for the vessel to lose its limits of liability. Violations in oil spill situations are also a cause for criminal action against the persons involved.

There is a legitimate question concerning enforcement. Every ship carries a deck log which is routinely completed by the deck officers. At the very least, the noon position is logged and the master and chief engineer are notified in writing. These logs are available for review by appropriate government personnel. To falsify deck logs would involve the

provide training for their personnel to repair and maintain electronics equipment on board our ships. AIMS does not accept or deny the validity of these contentions, including those made by the ARA. If a shipowner voluntarily or as a result of regulation must have an electronic maintenance functional capability on board, the validity of training provided will be discussed at the bargaining table.

On page 13, the comment is made "While GMDSS will be the means of maritime communications in the future, it is not yet fully implemented." The comment discusses the availability of digital selective calling (DSC). DSC is a call initiation method applicable to HF, MF, and VHF. With a DSC equipped HF, MF or VHF, a distress alert can be sent by the press of a button. HF, MF and VHF radios with DSC are fully tested

Certificate of Service

I certify that on July 21, 1993 I mailed copies of the foregoing "Reply Comments of the American Institute of Merchant Shipping" by first-class mail, postage prepaid, to:

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Respectfully,

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